

UNITED STATES DISTRICT COURT

for the

District of _____

Division _____

Case No. _____

CV-24-88-M-DWM

Bobby Francis Lowery V

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

RN Kelly, and WellPath HealthCare

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

AMENDED COMPLAINT FOR VIOLATION OF CIVIL RIGHTS (Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name Bobby Francis Lowery V
 All other names by which
 you have been known: _____
 ID Number 3021648
 Current Institution Montana State Prison
 Address 700 Conley Lake Rd.
Deer Lodge Mt. 59722
City State Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name RN Kelly
 Job or Title (*if known*) Nurse
 Shield Number _____
 Employer Missoula County Sheriff's office
 Address 2340 Mullan Rd.
Missoula Mt. 59808-1830
City State Zip Code
☐ Individual capacity ☒ Official capacity

Defendant No. 2

Name Well Path Health Care
 Job or Title (*if known*) Medical Company
 Shield Number _____
 Employer _____
 Address 2340 Mullan Rd.
Deer Lodge Mt. 59808-1830
City State Zip Code
☐ Individual capacity ☒ Official capacity

Defendant No. 3

Name _____

Job or Title (if known) _____

Shield Number _____

Employer _____

Address _____

City _____

State _____

Zip Code _____

☐

Individual capacity

☐

Official capacity

Defendant No. 4

Name _____

Job or Title (if known) _____

Shield Number _____

Employer _____

Address _____

City _____

State _____

Zip Code _____

☐

Individual capacity

☐

Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐Federal officials (a *Bivens* claim)☒

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Due process, and Cruel and Unusual punishment

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

RN Kelly refused to provide basic medical care based on Defendant Wellbath's policy of exclusion of formulary medications

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☒ Pretrial detainee
☐ Civilly committed detainee
☐ Immigration detainee
☐ Convicted and sentenced state prisoner
☐ Convicted and sentenced federal prisoner
☐ Other (explain) _____
-

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

N/A

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

Missoula County Detention Center

- C. What date and approximate time did the events giving rise to your claim(s) occur?

March 12, 2024 to Ongoing

- D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

See Att. "1"

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Permanent ~~scars~~ Scars, lung damage, and throat damage

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

1. \$100,000.00 Wellpath Health care
 2. \$100,000.00 Nurse Kelly
 3. All legal cost
 4. All future medical cost
-

Att. 1

The Plaintiff was charged on, or about March 18, 2022 in Missoula County, Missoula, Montana, with a crime.

On March 12, 2024 the Plaintiff was taken to Missoula County Detention Center to deal with this criminal charge.

The Plaintiff arrived with a 90 day supply of all his prescription medications; prescription fiber pills, prescription fiber powder, anti-seizure medication, Benedryl, celebrex, Voltaren gel, Hydroxine, inhaler, and Zoloff.

The Plaintiff was immediately off his Benedryl (Plaintiff suffers from an unknown allergic reaction that results in painful skin, hives, throat closure, and tongue swelling), his Voltaren gel (for his hip arthritis), his inhaler (used for obvious reasons), and all his fiber medications but half of his fiber pills (Plaintiff suffers from painful bowel blockage due to an injury).

Shortly after his arrival at MCDC (Missoula County Detention Center) the Plaintiff was seen by Defendant Kelly. Were they discussed her "feelings" that Benedryl was not the right medicine for the Plaintiff. As well as the Plaintiff's inhaler, and Voltaren gel. The Plaintiff asked Kelly if she had discussed this with his Doctor's, she said "no", and went on to explain Missoula County's financial hardships, and informed the Plaintiff that it was Defendant WellPath's policy of not prescribing "formulary" (not sure what that is) medications. The Plaintiff told Kelly if she could find a comparable

treatment he was fine with the change.

After this conversation, The Plaintiff then went nearly 90 days with absolutely no follow-up. It was not until the Plaintiff filed a informal grievance that Kelly called the Plaintiff back to medical. Where she was very upset with the Plaintiff for his filing a grievance. She had no concern for the pain she had left the Plaintiff in for weeks. At this time Kelly finally had the Plaintiff sign a medical records release form, requesting the Plaintiff's medical records. Even though she claimed to have already viewed the records, and based her medical diagnosis discussed above on said records (the medical records will reflect when said records were requested). She as well noted the Plaintiff's inflamed red skin, and sores, and finally placed the Plaintiff on a cream.

This cream helped the pain, but did not stop it at the level his Benedryl did. It as well helped with the red sore skin. Five days later the prescription for said lotion supposedly "expired". It then took the Plaintiff another 7 days to get the lotion back. This pattern of five or three days with the lotion and then said prescription would be stopped because it allegedly "expired" continued for the entire period of the Plaintiff's incarceration. This pattern is the average pattern for all inmates in M.C.P.C. custody. The pattern of only using a prescription for 10 out of 30 days per month of said prescription allowed a 30 day supply to last 90 days. Reducing the facility's medical cost.

The Plaintiff would file a grievance when the meds stopped all together, and then would be called to medical, and only then. Where he would be told that his medical records did not reflect why certain medications were needed. The Plaintiff had never met a doctor/nurse whom simply would not send a email to a previous doctor/nurse and ask the simple question of why a patient needed a certain medication.

During the above struggle for the Plaintiff's Benedryl. The Plaintiff developed a swollen hip and extreme pain in his hip. When he was called to medical the Plaintiff asked for his Valsperin gel. Since it was prescribed for said hip issues. The Plaintiff was then informed by Kelly that she could put him back on his Valsperin gel, but due to Defendant WellPath's policies, The Plaintiff could not be on two "formulary" drugs at the same time, i.e... Celebrex and Valsperin gel. Nurse Kelly said she would have to stop the Plaintiff's Celebrex, in order to give him Valsperin for his hip. Since at that time the Plaintiff's back was not his primary pain. the Plaintiff asked if his Celebrex could be stopped for a week, and then started back up. Nurse Kelly said "yes."

The Plaintiff received one dose of Valsperin gel. Then the Valsperin was stopped, and the Plaintiff's Celebrex was stopped completely. Once again a pattern of one or two doses occurred for about a week, and then both scripts completely stopped. Nurse Kelly's only attempt to fix the Plaintiff's painful skin was stopped. The Plaintiff's

back pain meds were stopped, and his Valsparin was stopped.

All of these issues were issues every inmate in the facility would experience. When the Plaintiff would ask to show his hives to a nurse. Said nurse would view the rash, and then recommend that the Plaintiff see Kelly. Several days later a second nurse would appear. Usually the nurse who wore a t-shirt that said "Corrections nurse" with the medical cross symbol in handcuffs on said t-shirt. This nurse would then say everything was fine, and to drink more water to bring down the swelling. Said nurse was only concerned with assiting guards with inmate behavior, not an inmate's health.

Because of the above actions, the Plaintiff was left in extreme pain for the entire period he was in custody in Missoula. His hip and back hurt. He had sore red skin that was painful to the smallest touch, and had extreme breathing issues. The damage caused by the Defendant's policies of not providing doctor ordered prescriptions has caused permanent nerve damage in his back, and his hip to this day is still swollen. Doctors say it will most likely need to be drained. Doctors as well say that the swelling was caused by arthritic inflammation, and that the Plaintiff's Valsparin gel and Celebrex were meant to keep said inflammation from occurring. Furthermore, the Plaintiff developed inflamed lungs. Which reduced, forever, his breathing capacity, and has resulted in a chronic cough, even as of today. The Plaintiff has

permanent scars on his arms and chest from rash left untreated and permanent throat damage. In fact when the Plaintiff arrived at Montana State Prison, after leaving M.C.D.C., The Plaintiff's health was considered so at risk that he was immediately taken to medical (see Ex. A). Where a doctor contacted the Plaintiff's prior doctor's and discussed the Plaintiff's medications. The Plaintiff was returned to his original medication within six hours of his arrival at M.S.P.

The Defendant's assumed claims that they allowed permanent life long damage to occur because they lacked medical records does not hold water. The above discussed "corrections nurse" worked at Lewis & Clark County Detention Center. As well as at M.C.D.C. She could have easily found out why the Plaintiff was on certain medications. As well, a simple email or phone call could have resulted in the same conclusion that Montana State Prison reached; that conclusion being that the Plaintiff had to be on all his original meds. The Plaintiff now takes his Celebrex, and benedryl twice a day. He has access to a inhaler, and pain cream. A doctor at M.S.P., and three doctors in Helena, Mt. all reached the same prescription decisions. The only one to not reach said conclusion was the Defendant's. Nurse Kelly's lack of concern has harmed the Plaintiff for life. The Plaintiff was answering for his crimes and he should not have been subjected to

Unnecessary pain and suffering. Kelly's actions were actions designed by WellPath Health Care in order to save money. A American Citizen in custody should not receive medical care so below par that it would be illegal for a Citizen on the streets to receive. The Plaintiff was held in a unit behind heavy locks, and inch thick glass. He could not seek any other medical care other then the medical care he was given. The Detendant's took advantage of this and only responded with medical checks when the Plaintiff informed staff of a issue via a grievance, all medical "kites" were ignored. Medical staff should be a safe havan for inmates. A neutral zone where all that matters is a inmates health. Not a place to see how far they can bend the ethics they swore to uphold in order to put extra money in their pockets.

The Plaintiff may not be able to seek mental damages, but this incident has permanetly harmed the Plaintiff's mental health. No matter how much he begged for help, he was simply ignored. Treating another human is such a way never seemed possible to the Plaintiff. He now has bad dreams and no longer trust that the system ultimately, has his best interest at heart. WellPath implemented a policy of withholding medications to reduce cost. That policy caused the Plaintiff permanent damage. The frontline medical person (kelly) ignored her ethical code and instead

of making a simple phone call, or sending an email to the Plaintiff's previous doctors, she told the Plaintiff that he needed to figure out how to prove to her why he took certain meds. The Plaintiff could have literally died in his cell by himself. ~~At~~ Nurse Kelly's claim is a absolutely ludicrous idea when one realizes that the Plaintiff was in jail, and phone calls, and letters are very expensive, and closely monitored, even if a doctors office would except the call.

Any lay person would think that a person whom was under the care of not one, not two, but three doctors, may have a very important reason to require certain medications, and a lay person would most definitely agree that a simple email or phone call to find out why someone needs certain prescriptions would be a critical step in medical care. Nurse Kelly nor WellPath took that very easy, and very necessary step. If WellPath's medical decisions were valid. The phone call or email would have supported the Defendant's claims, but the Defendant's never took that most basic of steps to protect the Plaintiff's health, and in neglecting that basic step they have permanently harmed the Plaintiff for life

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes ^{6 PL}

☒ No

☐ Do not know

If yes, which claim(s)?

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

In M.C.D.C.,

2. What did you claim in your grievance?

The exact issues at issue in this lawsuit.

3. What was the result, if any?

Nothing. The grievance process could not work because staff had to rely on the Defendant's opinion.

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

I exhausted the grievance all the way to the Captain.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this “three strikes rule”?

☒ Yes

☐ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

☐ Yes

☐ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing:

10/1/2024

Signature of Plaintiff

[Signature]

Printed Name of Plaintiff

Bobby Francis Lowry V

Prison Identification #

3021648

Prison Address

700 Conley Lake Rd.Deer Lodge
CityMT.
State59722
Zip Code**B. For Attorneys**

Date of signing:

[Signature]

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address



Montana Department of Corrections
5 S Last Chance Gulch St
Helena, MT 59620

9/6/2024 9:22:45 AM MDT

Patient:Lowry, Bobby Francis

#3021648 (3021648)

Lang:

PICTURE
NOT AVAILABLE

DOB:4/2/1977 (Age=47)

Sex:MALE

Race:White

Housing:MSP-MDIU L-B-3-2

Chimes ID:5203650

Type:Secure

Status:ACTIVE

Booking Date:7/17/2024 12:00:00 AM MDT

Release: 8/22/2026 12:00:00 AM

Previous										Last							
				Provider		Additional Date		Refill		Discontinued		Discontinued		Discontinued		Administered	
Name	Directions	Start	Stop	Name	Placed By	Information	Created	Date	Last Refilled By	By	Date	Reason	Date	Discontinue			
levETIRacetam	Take 500 mg by mouth twice a day for 30 day(s).	8/15/2024	2/10/2025	Chapel, Dean	Chapel, Dean	take with 1000 mg tablet	8/15/2024	2:35 PM					8/28/2024 6:08 PM MDT	Discontinue			
Oral 500 MG Tablet																	
levETIRacetam	Take 1000 mg by mouth twice a day for 300 day(s).	7/18/2024	5/13/2025	Rees, Paul	Heather Agostinelli Registered Nurse 2		7/18/2024	8/22/2024	walker vanwagoner				8/28/2024 6:08 PM MDT	Discontinue			
Oral 1000 MG Tablet																	
Omeprazole Oral 20 MG Capsule Delayed Release	Take 40 mg by mouth once in a.m. for 90 day(s).	7/17/2024	10/14/2024	Cozby, Jodi	Heather Agostinelli Registered Nurse 2		7/17/2024	8/23/2024	kerstin cooper				8/28/2024 6:08 PM MDT	Discontinue			
Sertraline HCl Oral 25 MG Tablet	Take 25 mg by mouth once in a.m. for 180 day(s).	7/17/2024	11/12/2025	Maas, Hailie Nicole NP	Heather Agostinelli Registered Nurse 2		7/17/2024	8/17/2024	kerstin cooper				9/6/2024 7:54 AM MDT	Discontinue			
hydrOXYzine HCl Oral 50 MG Tablet	Take 50 mg by mouth twice a day for 180 day(s).	7/17/2024	11/12/2025	Maas, Hailie Nicole NP	Heather Agostinelli Registered Nurse 2		7/17/2024	8/17/2024	kerstin cooper				9/6/2024 7:54 AM MDT	Discontinue			
diphenhydrAMINET HCl Oral 25 MG Capsule	Take 50 mg by mouth twice a day for 180 day(s).	7/17/2024	11/12/2025	Maas, Hailie Nicole NP	Heather Agostinelli Registered Nurse 2		7/17/2024	8/17/2024	kerstin cooper				9/6/2024 7:54 AM MDT	Discontinue			
Celecoxib Oral 200 MG Capsule	Take 200 mg by mouth once in a.m. for 300 day(s).	7/17/2024	5/12/2025	Cozby, Jodi	Heather Agostinelli Registered Nurse 2		7/17/2024	8/23/2024	kerstin cooper				7/24/2024 12:10 PM MDT	Discontinue			

only wanted treatment for the medical condition, and had no specific care in mind. Just that said care work.

Nurse Kelli in pursuit of a new treatment subjected me to blood test for Hepatitis (thinking it was causing my issue), without telling me what the blood draw was for. If she had asked me, I would have informed her that I had a Hep. test only a couple months prior, and that I had had no blood exposures since that test.

After my Hep. test came back negative Nurse Kelli eventually took my lotion and steroid cream. With no explanation as to why she stopped allowing me to have them. Since then no other treatment or research has been conducted. As to allow me some kind of relief. Nurse Kelli simply stopped all care.

After the cancellation of my creams, I became very concerned because I was being left in extreme pain. Thus in hope of relief, I filed grievance No. 590 (Att. "4").

Eventually, in response to my constant complaints a nurse came to see me outside my POD. I showed her and him my rash and sores. The nurse in response to my visible sores asked me to sign a medical record release for Nurse Kelli. I of course did. Again nothing happened.

On May 22, 2024, a very upset Nurse Kelli called me to medical. Where she belittled me, and eventually informed me that she asked for my medical records from

Att. A

① This grievance is in regards to medical not providing me medical care, for a long term health issue I have experienced since 2010. Said medical issue was under a doctors care upon my arrival at M.C.D.C.

The medical issue being a allergic reaction to my enviroment (hereditary: my father, & kids have it). Said allergic reaction causes me to suffer from severe painful skin that breaks out in hives, when I become upset. Swollen tongue and lips, and trouble breathing. Left untreated I have in the past experienced throat closure that required emergency medical care. This medical condition is very well documented in my medical records (I have been in custody for 3.5 years straight (Lewis & Clark)).

The problem is that when I arrived at M.C.D.C. Nurse Kelli told me that "she did not provide Benadryl to inmates." I told Nurse kelli I was fine with not receiving benadryl. As long as some replacement treatment was provided. Nurse kelli in response gave me a lotion, and steroid script. Both I tried for nearly a year in 2020. with a small amount of relief. Yet, I was willing to allow Nurse kelli to research my medical condition. Since I

① Please find attached, Att "1": inmate grievance form; Att. "2": inmate grievance appeal; Att "3": grievance appeal attachment. These attachments regard grievance No.: 2024-679.

my doctor after a multitude of test, and medical research, concluded: that benadryl was a successful treatment for my medical condition. (certainly more successful then no care at all for months.

I should not have to be subjected to a repeat of painful test based on a nurse's personal beliefs. Nurse Kelli's actions would be completely unacceptable in a actual medical facility. A nurse could not, nor would not override a doctors well researched medical decisions. Furthermore, Nurse kelli simply stopped all care, all together, and made no further medical inquires. Simply because she did not receive the answer she wanted.

RELIEF SOUGHT

My doctor has knowledge from my multiple hospital stays due to severe allergic reactions. Allergic reactions that closed my throat and nearly killed me. Nurse kelli is leaving me completely exposed to a life threatening episode. I should not be exposed to more poking and proding until Nurse kelli gets a answer she wants. All while I wait untreated. I have been successfully treated with benadryl since 2020. I have given Nurse kelli: enough time to research, her continued delay places me in pain, and risk my death. This facility has the ultimate responsibility to protect my health from malicious or mis-directed staff activities. Nurse kelli's activities to prove

herself right have left in extreme pain, and has placed my
life in jeopardy. My doctors directions are very clear.

INMATE MEDICAL/DENTAL & MENTAL HEALTH REQUEST TO STAFF

NAME: LOWERY, BOBBY UNIT: 3F DATE: 5-22

REASON - BE BRIEF BUT SPECIFIC: _____

MEDICAL RESPONSE: LOOK RECORDS DON'T INDICATE WHY URO WERE ON BANNED
DIETARY, WITHOUT A CLINICAL INDICATION, NON-PERMISSIBLE MEDS CAN NOT
BE CONTINUED/STARTED.

Signature: [Signature] Date: 5-27-24

PINK: STAYS WITH INMATE YELLOW: RETURNED TO INMATE OF DISPOSITION WHITE: CHART COPY

INMATE MEDICAL/DENTAL & MENTAL HEALTH REQUEST TO STAFF

NAME: Abel, Henry UNIT: F13 DATE: 5/21/24

REASON - BE BRIEF BUT SPECIFIC: I asked for my Valproate from the pharmacy and they said I had to wait for it. I am still waiting for my Valproate to be ordered.

MEDICAL RESPONSE: Please discuss these things w/ the provider.

Signature: [Signature] Date: 5/22/24

PINK: STAYS WITH INMATE YELLOW: RETURNED TO INMATE OF DISPOSITION WHITE: CHART COPY

MISSOULA COUNTY DETENTION FACILITY

INMATE GRIEVANCE FORM

NO: 2024-590

Attachment _____ yes X no

NAME: harry

BK#

UNIT# FL3

DATE: 4/12/24

DESCRIPTION OF COMPLAINT: Must include date and time incident occurred, attempts made at informal resolution, name(s) of witness (if any), Any physical evidence (documents, ect.) and names of staff involved.

I came to this facility after serving 3 years in custody of Lewis & Clark County. I was under medical care at Benedict, prison, and medical staff. I had a known medical condition which caused painful skin with hives. Lewis & Clark County treated my condition using Benedyl. I had been on steroids prior but they did not work. When I arrived at this facility, a nurse decided to override my current 3 doctors orders and put me back on steroids and took me off Benedyl. I was fine with it as long as I did not suffer. It has been over a month and I am extremely uncomfortable, and in a great amount of pain per my original doctors orders I should be on Benedyl. A nurses personal opinion as to my care is irrelevant. I have been through all of it before. This facility's continued stance is a violation of my Constitutional right to be free of cruel & unusual punishment, and per this facility's knowledge of my Doctors orders. This facility is demonstrating a clear deliberate indifference to my pain. I know how to handle the matter and I will handle it. Ask Lewis & Clark.

ACTION REQUESTED:

To be placed with my medical medications. Since this facility of care is not suitable, I have given it enough time to expire.

INMATE SIGNATURE: [Signature]

RECEIVED BY: Moder

DATE: 4/12/24 4/16/24

STEP 2 RESPONSE:

Mr. Lowry - You have been seen by provider and are scheduled to be reevaluated. Thanks Lori RN 4.23.24

INMATE SIGNATURE:

DATE:

I ACKNOWLEDGE THAT I HAVE RECEIVED A COPY OF THIS RESPONSE. I DO ☐ I DO NOT ☐ INTEND TO APPEAL TO THE NEXT LEVEL

APPEALS, MUST BE FILED WITHIN (3) WORKING DAYS OF RECEIPT OF RESPONSE. APPEALS ARE TO BE PLACED IN THE COLLECTION BOX PROVIDED IN THE UNIT OR HAND DELIVERED TO THE GRIEVANCE COORDINATOR.

GRIEVANCE COORDINATOR-WHITE

INMATE- CANARY

INMATE RECEIPT - PINK

Att 1
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This grievance appeal is regarding this facility stopping my doctor ordered, well established medical care (i.e. my benzydrl. For my long term skin pain). As I have expressed multiple times, I am not opposed to my treatment being changed. As to better fit this facilities policies, but as I have stated before, I am very opposed to my care being stopped, and no other care or treatment taking its place.

It has been over a month since I have arrived at this facility, and medical staff, first put me on Cordizon cream (this did not work, because I am allergic to Cordizon. *Please reference my medical records). Then medical staff placed me on a lotion (which partially helped some of the easier to cope with symptoms, but for some reason this is constantly taken from me), and then medical staff placed me on a steroid cream (which I had used for over a year. Around 4 years ago, and it only worked for a little while on just the hives. then stopped. *Please reference my medical records).

All of these "replacement treatments". Had been tried before in my past treatments, and are all well documented in my medical records. Medical staff should not place me in long term pain, while medical staff attempts to try them once again.

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Furthermore, medical staff can not simply avoid my pain and suffering by claiming "they are attempting to figure out what is the best treatment for me". Especially since multiple doctors have already reached a treatment decision that stabilized my pain and allowed me to live a close to normal life.

To support my above argument, I point to the following questionable medical treatment decisions.

First, RN Kelly ordered two blood draws. One was for basic medical checks, and was fine. The second one was to test me for Hep (Hep can cause my skin symptoms). Which would be great, if not for the simple fact that I was tested for Hep last year. I have not gotten a new tattoo, or been exposed to any blood or bodily fluids since my last test. Nor have I had intercourse with anyone. Since I have been in jail for the last 3 years.

So if medical staff had referenced my medical records, or simply asked me instead of playing secret squirrel. I would have been saved the pain of a unnecessary blood draw, and this facility would have been saved from the expense.

Next RN Kelly decided to only seek the last year of my medical records. This resulted in a near catastrophe by exposing me to Cordizon (which I am allergic), a

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unnecessary blood draw, and a repeat of already eliminated medical treatments, and finally RN Kelly decided that instead of consulting my current doctors (the doctors who reached the conclusion to place me on benxydryl).

That she should consult a doctor named Doctor Reese.

Doctor Reese is the Montana State Prison doctor. A doctor I have not seen since 2019. A doctor who wears rubber boots to work. A actual doctor who is suppose to be clean, who wears muddy rubber boots around patients with compromised immune systems, and open wounds.

All of this fiasco is occurring while I suffer severe skin pain, shortness of breath, hives, and skin nerve pain.

In closing I wish to point out that I am actually being left completely untreated for a well documented medical condition. Simply because RN Kelly believes my current doctors got it wrong. Well if RN Kelly is right, then great. I am all for not hunting, but so far all she has provided me is a complete failure to treat me at all, and because of this, this facility has acted completely indifferent to my pain.

To: Inmate Lowry
From: CDO Richter
Date: 5/2/24
Re: Grievance Appeal Dated 4/24/24

Your grievance appeal dated 4/24/24 is denied for the following reasons:

- You failed to properly fill out the grievance appeal form. When filling out a grievance appeal form you are required to document the original grievance number on the grievance appeal form. (See grievance procedures on page 16 of the inmate rulebook.)
- I'm not a trained medical professional and lack the training and experience to diagnose medical conditions, prescribe treatment plans and/or medications, or override medical decisions.
- Medical is planning to meet with you. Please remember it is your responsibility to follow all treatment plans medical prescribes for you. If your condition remains the same or worsens please kite medical explaining your issue and request to be seen by them.

CDO Richter

MISSOULA COUNTY DETENTION FACILITY

INMATE GRIEVANCE FORM

NO: 2024-679 Attachment yes ☒ no ☐NAME: Bob E. Long BK# UNIT# 113 DATE: 4/29/24

DESCRIPTION OF COMPLAINT: Must include date and time incident occurred, attempts made at informal resolution, name(s) of witness (if any), Any physical evidence (documents, ect.) and names of staff involved.

I recently received
 a response to a medical issue I sent. I was asking for help for my
 painful skin. I was wondering and I was told they tell me I was
 with absolutely no care. The nursing response was that I am getting my
 blood pressure checked every night. So I just need skin care. What in
 the world does my blood pressure have to do with my medically established
 painful skin? This treatment is unconstitutional. You can just have me in
 pain.

ACTION REQUESTED:

My case to be correctly handled

INMATE SIGNATURE: [Signature] RECEIVED BY: Medin DATE: 5/1/24

STEP 2 RESPONSE:

Please See Response From Medical

INMATE SIGNATURE: [Signature] DATE: 5/15/24I ACKNOWLEDGE THAT I HAVE RECEIVED A COPY OF THIS RESPONSE. I DO ☒ I DO NOT ☐ INTEND TO APPEAL TO THE NEXT LEVEL

APPEALS, MUST BE FILED WITHIN (3) WORKING DAYS OF RECEIPT OF RESPONSE. APPEALS ARE TO BE PLACED IN THE COLLECTION BOX PROVIDED IN THE UNIT OR HAND DELIVERED TO THE GRIEVANCE COORDINATOR.

GRIEVANCE COORDINATOR-WHITE

INMATE- CANARY

INMATE RECEIPT - PINK

To: Inmate Lowry
From: CDO Richter
Date: 5/22/24
Re: Grievance Appeal #2024-679

Your grievance appeal #2024-679 is denied for the following reasons:

- You failed to attach a copy of the original grievance and its response. When submitting a grievance, you must attach a copy of the original grievance and its response. (Please review Grievance Procedures on page 16 of the inmate rulebook.)
- I'm not a medical professional and do not have the training or experience to overrule medical decisions.
- Medical has scheduled you to see an offsite medical provider.
- It is your responsibility to follow all treatment plans for your ailment. If your condition worsens or doesn't improve, please send a kite to medical stating what your issue is and request to be seen by the medical provider.
- If at any time you begin to experience breathing difficulties immediately contact the officers in the control room and explain your issues and request medical help.

CDO Richter

No.: 2024-679

MISSOULA COUNTY DETENTION FACILITY
GRIEVANCE APPEAL TO FACILITY ADMINISTRATOR

INMATE NAME: Bobby, E. [unclear] BK# _____ UNIT FL3 DATE 5/24/24

State the reason you are appealing, and attach a copy of the original grievance.

See Att. "A"

[Signature] ✓ 5/27/24

FACILITY ADMINISTRATOR DECISION

Appeal has been granted 06/03 Denied ✓ Date 06/04/2024

Comments or recommendations:

See attached

M. H. 445
Facility Administrator's Signature

Grievance Coordinator (white)

Inmate (canary)

Inmate receipt (pink)



MISSOULA COUNTY DETENTION FACILITY



To: Bobby Lowry

Subject: 2nd Grievance Appeal 2024-679

Date: 06/04/2024

Mr Lowry,

Your 2nd Grievance Appeal dated 05/24/2024 was denied for the following reasons:

After consultation with Wellpath leadership, your medical records do not indicate a diagnosis that would require Benadryl for treatment and attempts to obtain your medical records have not been successful. Without verification in your medical history, Wellpath will not start you on Benadryl. I encourage you to contact your provider to obtain those medical records so that your condition can be properly treated.

In addition, Wellpath nurses have not observed your reported rash. You reported that the rash usually lasts one day and then is gone. It is equally difficult for Wellpath personnel to diagnose your condition when they haven't been able to observe your condition. Without an observable rash, you'll unlikely be able to be prescribed Benadryl. I encourage you to contact medical when your condition appears so that it can be treated properly.

Signed:

Captain Michael Hash

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NO: 2024-590

Attachment _____ yes X no

BK#

UNIT# FL3

DATE: 4/2/24

I came to this

facility after serving 3 years in custody of Lewis & Clark County. I was under medical care at Bechtel, prison, and medical staff. I had a known medical condition which caused painful skin with hives. Lewis & Clark County treated my condition using Benadryl. I had been on steroids prior but they did not work. When I arrived at this facility, a nurse decided to override my current 3 doctors orders and put me back on steroids and took me off Benadryl. I was fine with it as long as I did not suffer. It has been over a month and I am extremely uncomfortable, and in a great amount of pain. Per my original doctors orders I should be on Benadryl. A nurses personal opinion as to my care is irrelevant. I have been through all of it before. This facility's continued stance is a violation of my Constitutional right to be free of cruel & unusual punishment, and per this facilities knowledge of my Doctors orders. This facility is demonstrating a clear deliberate indifference to my pain. I know how to handle the matter and I will handle it. Ask Lewis & Clark.

ACTION REQUESTED:

To be placed back on my original medication. Since this facility of care is not whole care, I have given it enough time to work.

INMATE SIGNATURE: [Signature]

RECEIVED BY: Moder

DATE: 4/16/24

STEP 2 RESPONSE:

Mr. >Lowry - You have been seen by provider and are scheduled to be reevaluated. Thanks Lori RN 4.23.24

INMATE SIGNATURE:

DATE:

I ACKNOWLEDGE THAT I HAVE RECEIVED A COPY OF THIS RESPONSE. I DO _____ I DO NOT _____ INTEND TO APPEAL TO THE NEXT LEVEL.

APPEALS, MUST BE FILED WITHIN (3) WORKING DAYS OF RECEIPT OF RESPONSE. APPEALS ARE TO BE PLACED IN THE COLLECTION BOX PROVIDED IN THE UNIT OR HAND DELIVERED TO THE GRIEVANCE COORDINATOR.

GRIEVANCE COORDINATOR-WHITE

INMATE- CANARY

INMATE RECEIPT - PINK